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10/028,875	10/22/2001	Paul Coffin	10013458-1	4658
7590	12/16/2003		EXAMINER	
			VAN PEEL, BRADLEY J	
			ART UNIT	PAPER NUMBER
			3682	

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 15

Application Number: 10/028,875

Filing Date: October 22, 2001

Appellant(s): COFFIN ET AL.

Morley C. Tobey
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 31, 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct. The rejection under 35 USC § 112 second paragraph, set forth in paper 10, has been removed.

(7) *Grouping of Claims*

The rejection of claims 1, 2, 5-8, and 14-23 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7), which sets forth "Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately

patentable." In the argument section the appellants are merely pointing out what the claims cover; therefore, the claims stand or fall together.

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,433,516	Beals et al.	7-1995
6,390,226	Smith et al.	5-2002

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 5-8, 14, and 17-23 rejected are under 35 U.S.C. § 102(b). This rejection is set forth in prior Office Action, Paper No. 10. Beals in fig. 24a anticipates the angles set forth in the claims when viewing the latching member or bendable piece of material (180) from the opposite side of the view shown in fig. 24a. The perspective shown is simply a top view of the piece (180). A **bottom** view of the piece (180) anticipates **all** of the angle limitations.

Claims 15 and 16 are rejected under 35 U.S.C. § 103(a). This rejection is set forth in prior Office Action, Paper No. 10.

(11) *Response to Argument*

A. Regarding Arguments with Respect to Rejection of Claim 1

Appellants argue that Beals does not disclose a first section of which a portion is attached to a second body, specifically appellants state the Beals reference does not anticipate in claim 1 "at least a portion of the first section is attached to the second body." In paper 10, page 3, the

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examiner sets forth first section 190 and second body 170 in Beals (see fig. 24 and enlarged view fig. 24a).

Attached, as defined by appellants, means “to fasten, secure, or join.” Here, the first section 190 part of the continuous piece 180 is fastened, secured, and joined to second body 170. As shown in fig. 24, the piece 180 is snapped into place on cross-bar 183 of the second body 170. Therefore, the first section part 190 must be attached to the second body 170; otherwise, the piece would not be supported. Therefore, for this reason alone the appellants have not overcome the Beals reference.

Appellants seem to disagree with examiner on the functionality of the Beals patent in paper 14, page 7, lines 28-29 stating that the first section 190 does not touch portion 192 of the second body 170 and also pg. 8, lines 2-12 stating the “two sections (188 and 190) are incapable of stopping any movement.” This clearly is a misinterpretation of the Beals reference. The application of the Beals patent is in a drawer for a filing cabinet. When the drawer is pulled out to receive an item, the stop 194 prevents the drawer from coming out of the second body 170 by means of the piece 180 contacting the stop 194. The piece 180 then flexes resulting in the contact of the first portion 190 and a portion 192 of the second body 170; thus portions 190 and 192 do indeed touch, contrary to the belief of the appellants. As these two components contact each other, the drawer does not move out of the frame portion. Therefore, appellants’ assertion in that these two sections (188 and 190) are incapable in stopping any movement is incorrect.

As stated above, one definition of attach provided by the appellants is ‘to secure.’ The securing of two objects is simply accomplished by applying a force to both of the objects. For instance one would secure or attach a calendar to a wall with a tack. The tack applies a force to

the wall and to the calendar, thus, securing it to the wall. The use of a tack and simply holding the calendar against the wall to write down an appointment are not in any way distinguishable; they both apply forces to the wall and the calendar. Both are a non-permanent means of securing the two components, the only difference being the use of a tool - the tack.

Here, when the first portion 190 is in contact with portion 192 of the second body 170; the two components are secured to each other by the force of the drawer being pulled outward. The only distinction would be that in the instant invention is the use of a tool, such as glue or a weld, therefore, making the attachment more permanent. Since the appellants have not claimed such a limitation, portions 190 and 192 are attached when the drawer is pulled outward.

Thus, the claimed invention does not overcome the Beals reference because the piece is attached at two distinct locations. (1) The first section 190, part of the continuous piece 180, is fastened, secured, and joined to second body 170; otherwise, it would be suspended in midair. (2) The first section 190 is in direct contact and temporarily attached to the portion 192 of the second body 170 by the force of the drawer when being pulled outward.

B. Regarding Arguments with Respect to Rejection of claims 2, 5-8, 14, and 17-23

Appellants argue that the third section (115 of the instant application) is not analogous to that of Beal's third section 186, because piece 102 would be unsupported in space. The examiner does not understand this argument, as established, piece 180 is clipped onto second body 170 and is not unsupported in space.

Appellants then argue that the Beals reference does not anticipate forces being applied to the third (186) and fourth (184) sections. Given the broadest reasonable interpretation, the limitations in claims 22 and 23 do not preclude the fact that when a force is applied to the piece

in general the force will be dissipated throughout the third and forth sections. Therefore, forces will be applied to the third and forth sections.

C. Regarding Arguments with Respect to Rejection of Claims 15 and 16

Appellants' rely on the previous argument that the Beals reference does not anticipate all of the elements to overcome the rejection of claims 15 and 16. Since it is clear Beals does anticipate all of the elements of the claimed invention, this point is moot.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

BJVP 
December 12, 2003

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